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DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. DOT-OST-2012-0124]

Notice of Transportation Services' Transition from Paper to Electronic Fare Media Comments, Response to Public Comments, and Final Notification.

AGENCY: Office of the Secretary, DOT

ACTION: Notice

SUMMARY: On March 29, 2011, and April 2, 2012, U.S. Department of Transportation's Office of Transportation Services (TRANServe), located within the Office of the Assistant Secretary for Administration, published for public comment Notices of the adoption of a new program distribution methodology for transit benefits. To date, TRANServe has implemented its plan in three of the eight TRANServe Services Areas and continues to implement electronic fare media across the United States, ensuring that the implementation in the remaining five TRANServe Service Areas is consistent with applicable statutes and regulations. TRANServe's plan is a two-year initiative designed to be responsive to industry changes and technological advances. Over time, many State and local transit authorities are transitioning, or have already transitioned, to electronic fare media, compelling the shift from a paper based system (vouchers) to an electronic fare media structure. Now that the Federal Register notification process is final, TRANServe will continue to engage all appropriate stakeholders through outreach and communication for assistance and advice.

FOR FURTHER INFORMATION CONTACT: Ms. Denise P. Wright, Business Office Manager, 1200 New Jersey Avenue SE, Washington D.C. 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On March 29, 2011, and April 2, 2012, TRANServe published for public comment Notices of its intent to adopt a new program distribution methodology for transit benefits. TRANServe provides service to over 250,000 transit benefit participants employed by over 100 federal organizations nationwide. Since the program's inception, TRANServe has distributed the qualified transportation fringe benefit to participating Federal employees via a paper voucher process. In addition to a growing number of participants, many State and local transit authorities are transitioning, or have already transitioned, to electronic fare media, compelling the shift from a paper based system (vouchers) to an electronic fare media structure. TRANServe has also experienced rising program costs related to inventory, travel, and infrastructure support, requiring that TRANServe adopt a new distribution method from paper to electronic fare media. As a result, TRANServe is implementing an efficient and effective electronic fare media transition to its participating transit benefit agencies, consistent with statutory requirements in 49 U.S.C. § 327, Administrative Working Capital Fund; 26 U.S.C. § 132(f), Qualified Transportation Fringe; 31 U.S.C. § 3302, Custodians of Money; Federal Employees Clean Air Incentives Act (P.L. 103-172); and Executive Order 13150, Federal Workforce Transportation. To date, for instance, TRANServe has shifted to electronic fare media in the following three of the eight TRANServe Service Areas:

Service Area 1 – Washington, DC, Maryland, and Virginia.

Service Area 2 (Southeast) – Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Louisiana.

Service Area 3 (Upper Midwest) – Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, West Virginia, Kentucky, Virgin Islands, and Puerto Rico.

TRANServe intends to continue the implementation of electronic fare media across the United States within the five remaining areas, ensuring that such implementation is consistent with applicable statutes and regulations.

II. Discussion of Public Comments Received on TRANServe’s adoption of a new program distribution methodology for transit benefits.

This section presents a summary of the significant comments submitted regarding the Federal Register Notices published on March 29, 2011, and April 2, 2012 on TRANServe’s adoption of a new program distribution methodology for transit benefits and TRANServe’s responses to those comments. TRANServe had received comments from interested individuals prior to this opportunity to comment. To provide a level playing field, TRANServe addresses all stakeholders’ comments, if applicable, via these overarching responses.

Comment: TRANServe should develop a method to allow federal employees to add funds to their benefit cards, possibly through a credit or debit card transaction, so the TRANServe benefit card could be used to pay for monthly passes that cost over \$125.

Response: The U.S. Department of Treasury is the Administrator of the US Debit Card (USDC) Program, under which TRANServe has established the TRANServe Debit Card. Currently, the Treasury USDC Program does not offer a card product that delivers federal payments via a card with the capability of adding personal funds.

Comment: Suggest that TRANServe advise transit agencies of any changes or additions to their Bank Identification Number (BIN).

Response: TRANServe does not anticipate changes to the BIN number. But if there are any changes, TRANServe will continue to work with transit agencies for a smooth transition.

Comment: Commenters remarked that they would be willing to assist TRANServe in the adoption of an electronic distribution system through consultation and outreach.

Response: This Federal Register Notice comment period has provided an opportunity for stakeholders to assist and advise TRANServe as it transitions to electronic fare media for its participating agencies. However, TRANServe notes that there is no overarching Federal Agency responsible for Policy regarding the Transit Benefit Program.

Comment: Define Electronic Fare Media.

Response: TRANServe intends that the term “Electronic Fare Media” means electronic media that are excluded from gross income Section 132(a)(5) and 132(f) of the Internal Revenue Code and may encompass smartcards, debit or credit cards, or other electronic media that meet the applicable requirements.”

Comment: Does TRANServe intend to load smart cards for any transit agencies other than WMATA? If so, which ones?

Response: At this time, TRANServe does not plan to load smart cards for any transit agency other than WMATA. However, TRANServe will take whatever steps are necessary to ensure that its new program distribution methodology for transit benefits is consistent with applicable legal requirements.

Comment: Commenters inquired whether the TRANServe debit card is compliant with IRS Revenue Ruling 2006-57, as modified, which requires the cards to be restricted to sales terminals selling fare media only?

Response: The TRANServe debit card continues to be compliant with Internal Revenue Code Section 132(f) and the applicable regulations, and is consistent with how those requirements are applied in IRS Revenue Ruling 2006-57 to certain factual situations.

Comment: Commenters asked about transaction monitoring, the restriction process developed for monitoring compliance, and how the TRANServe card would be protected to reduce fraudulent use.

Response: The restriction process was developed through comprehensive analysis of IRS Revenue Ruling 2006-57, which provides guidance on the use of smartcards, debit or credit cards, or other electronic media under various situations to provide qualified transportation fringes, as well as analysis of other governing statutes, regulations, and policies. Consistent with the Office of Management and Budget Circular A-123, Management's Responsibility for Internal Control, TRANServe and participating agencies have the responsibility for monitoring compliance. Additionally, transaction monitoring takes place through various means, to include but not limited to, system activity monitoring, data mining, anomaly reporting, etc. In order to reduce or mitigate fraudulent activity, the TRANServe debit card is issued with the participant's name, is restricted to use with transit providers, returns unused funds to the Federal government at the end of each period, and provides detailed reporting of anomalies to permit follow-up action and system adjustments.

Comment: Will nationwide rollout of this card, and corresponding monthly sweeping, create additional administrative issues at a time when DOT is seeking to reduce admin costs?

Response: No. There are different administrative tasks with the introduction and use of the TRANServe debit card; however, TRANServe anticipates a decrease in administrative costs and better efficiencies in the long run.

Comment: How will TRANServe administer its bicycle benefit program using "Electronic Fare Media?"

Response: TRANServe does not administer its bicycle benefit program using electronic fare media.

Comment: Please indicate how 49 U.S.C. 327, Administrative Working Capital Fund; 26 U.S.C. 132(f), Qualified Transportation Fringe; 31 U.S.C. 3302, Custodians of Money; Federal Employees Clean Air Incentives Act (Pub. L. 103-172); and Executive Order 13150, Federal Workforce Transportation require DOT to switch to "Electronic Fare Media"?

Response: The statutes and regulations mentioned do not require DOT to switch to Electronic Fare Media. In order to better serve its customers, TRANServe is responding to transit authority changes and technological advances, which are expected to reduce administrative costs and aid in the monitoring of the appropriate use of transit benefits.

Comment: How will employees using vanpools, buses, etc. be able to access their transit benefits?

Response: A growing number of State and local transit authorities are transitioning to electronic methods of payment. As explained above, the TRANServe Debit Card is now being used to distribute the transit benefit to federal employees in several geographic service areas.

TRANServe recognizes that some transit providers have not yet implemented technologies that permit electronic payments. In each instance, TRANServe will continue to provide a limited

paper voucher process while working with the transit provider towards acceptance of electronic payments, when appropriate.

Comment: Commenters asked about the cost to administer the TRANServe program; how it compares with, or whether it is duplicate of, similar programs in the private sector; and whether TRANServe has investigated contracting its transit benefit program to a third party vendor to reduce its administrative costs and overhead.

Response: The TRANServe Program is a fee-for service organization, which operates on a breakeven basis. TRANServe along with other Federal government agencies operate under specific statutory restrictions and authorities that only reside with and apply to the Federal government. Thus, TRANServe does not duplicate private sector services. When it is cost effective and programmatically feasible, TRANServe contracts out services that are not inherently governmental. In terms of the transition to electronic fare media, TRANServe is taking advantage of technological advances in the industry that are expected to reduce administrative costs, while assisting in the monitoring of the appropriate use of transit benefits.

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Transit Benefit Programs

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